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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/996,826	11/30/2001	Harry J. Chmielewski	53394.000442	2686
21967	7590	02/05/2004		
HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109			EXAMINER ANDERSON, CATHARINE L	
			ART UNIT	PAPER NUMBER
			3761	9
DATE MAILED: 02/05/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/996, 826

Applicant(s)

CHMIELEWSKI, HARRY J.

Examiner

C. Lynne Anderson

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 January 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-85.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

JOHN S. SALVERT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700

Continuation of 2. NOTE: The proposed amendment to claim 16 disclosing a stabilizing agent, and to claim 17 further limiting the AUL value, will require further consideration.

Continuation of 5. does NOT place the application in condition for allowance because: With respect to the rejection in view of Melius et al. (5,601,542), the arguments are drawn to features of the proposed amendment, which has not been entered.

With respect to the rejection of claims 1-23 and 26-85 under 35 U.S.C. 102(b) as anticipated by Chmielewski (5,891,120), Chmielewski discloses a product having substantially identical structure and composition as the claimed invention, and therefore a prima facie case of anticipation has been established (see MPEP 2112.01). The instant invention comprises a superabsorbent polymer, polyacrylate (see claim 8). Chmielewski discloses a superabsorbent polymer, polyacrylate, in column 4, line 12, and therefore discloses a product having the same structure as the claimed invention. Further, the superabsorbent polymer disclosed by Chmielewski fulfills the claimed limitation of an AUL value of less than about 25 g/g at 0.3 psi, as described in column 4, line 64. The Gel Integrity Index measures the resistance of the superabsorbent polymer after absorption, as described in the instant specification on page 10, lines 11-25. The instant specification discloses, on page 11, lines 13-15, that superabsorbent polymers having a Gel Integrity Index within the claimed range exhibits superior absorbency. The superabsorbent polymer of Chmielewski discloses the same superior absorbency of the claimed invention, and it would follow that the superabsorbent polymers of Chmielewski would likewise display the same Gel Integrity Index as the claimed invention. The rejection of claims 1-23 and 26-85 under 35 U.S.C. 102(b), and therefore also claims 24 and 25 under 35 U.S.C. 103(a) in view of Chmielewski is proper.